

### Amendments to the Claims

Claim 1 (Previously presented): A promoter sequence capable of directing expression of a nucleotide sequence in a plant cell, said sequence comprising:

a ubiquitin promoter sequence, wherein said sequence includes a modification so that there are no heat shock elements.

Claims 2-7 (Cancelled)

Claim 8 (Previously presented): The promoter sequence of claim 1 wherein said sequence includes a deletion of two overlapping heat shock elements at position -214 – -190 of SEQ ID NO: 1.

Claim 9 (Currently amended): The promoter sequence of claim [[9]] 1 wherein said promoter sequence contains further comprising a transcription factor-binding site~~factor~~.

Claim 10 (Previously presented): The promoter sequence of claim 9 wherein said transcription binding factor is selected from the group consisting of PsI, EBP, HY5, BLZ-1, Gamyb, RF2a, ROMI, GT-1, SPA, Dof2, and Opaque.

Claim 11 (Previously presented): The promoter sequence of claim 10 wherein a PsI element comprises SEQ ID NO: 5.

Claim 12 (Previously presented): The promoter sequence of claim 11 wherein said PsI element is a trimer.

Claim 13 (Original): An expression construct comprising:  
a nucleotide sequence according to claim 1, operatively linked to a structural gene.

Claim 14 (Original): A vector capable of transforming or transfecting a host cell, said vector comprising an expression construct according to claim 13.

Claim 15 (Original): The vector of claim 14 wherein said vector is a plasmid based vector.

Claim 16 (Original): The vector of claim 14 wherein said vector is a viral based vector.

Claim 17 (Original): A prokaryotic or eukaryotic host cell transformed or transfected with a vector according to claim 14.

Claim 18 (Original): The host cell of claim 17 wherein said cell is a plant cell.

Claim 19 (Previously amended): A method for causing expression of a structural gene or open reading frame in a plant cell, said method comprising:  
introducing to a plant cell an expression construct comprising a ubiquitin promoter sequence,  
said sequence having been engineered so that it comprises no heat shock elements.

Claims 20-26 (Cancelled)

Claim 27 (Previously presented): The method of claim 19 wherein said sequence includes a deletion of two overlapping heat shock elements at position -214 - -190 of SEQ ID NO: 1.

Claim 28 (Currently amended): The method of claim 19 wherein the promoter sequence  
~~further comprises~~ contains a seed specific factor binding site.

Claim 29 (Currently amended): The method of claim 28 wherein said seed specific factor  
binding site is a PsI element.

Claim 30 (Previously presented): The method of claim 29 wherein said PsI element comprises SEQ ID NO: 5.

Claim 31 (Currently amended): The method of claim 30 wherein said PsI element is a trimer.

Claim 32 (Original): The promoter sequence of claim 1 wherein said promoter is capable of driving expression to the leaf.

Claim 33 (Original): The promoter sequence of claim 1 wherein said promoter is capable of driving expression to the root.

Claim 34 (Original): The promoter sequence of claim 1 wherein said promoter is capable of driving expression to the seed.

Claim 35 (Currently amended): The promoter sequence of claim 34 wherein said expression is embryo preferred expression.

Claim 36 (Original): A promoter sequence capable of directing expression of a nucleotide sequence in a plant cell comprising:

a ubiquitin promoter sequence, wherein said sequence includes a modification so that said promoter directs expression to increase the endosperm/embryo expression ratio of said protein when compared to the ratio from a wild-type ubiquitin promoter.

Claims 37-39 (Cancelled)

Claim 40 (Original): An engineered ubiquitin promoter comprising a deletion of the 5' and 3' heat shock elements.

Claim 41 (New): A promoter sequence capable of directing expression of a nucleotide sequence in a plant cell comprising:

a ubiquitin promoter sequence, wherein said promoter sequence includes a modification so that said promoter directs expression to increase the endosperm/embryo expression ratio of said protein when compared to the ratio from a wild-type ubiquitin promoter, said promoter sequence does not include a 5' heat shock element (HSE) and a 3' heat shock element (HSE).

Claim 42 (New): The promoter sequence of claim 41, wherein said 5' heat shock element (HSE) and said 3' heat shock element (HSE) are replaced by a Ps1 element.

Claim 43 (New): The promoter sequence of claim 44, wherein said Ps1 element is a trimer.

Claim 44 (New): A promoter sequence capable of directing expression of a nucleotide sequence in a plant cell, said sequence comprising:  
a ubiquitin promoter sequence, wherein said sequence comprises two adjacent heat shock elements having the sequence set forth in SEQ ID NO:4.

Claim 45 (New): A method for causing expression of a structural gene or open reading frame in a plant cell, said method comprising:  
introducing to a plant cell an expression construct comprising a ubiquitin promoter sequence, said sequence comprises two adjacent heat shock elements having the sequence set forth in SEQ ID NO:4.